

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CONSOLIDATION COAL COMPANY,)	
)	
Plaintiff,)	
)	
v.)	
)	
UNITED STATES DEPARTMENT OF THE)	
INTERIOR, NATIONAL PARK SERVICE, et al.)	
)	CIVIL ACTION No. 00-2120
Defendants.)	
_____)	
)	
ROY BRENDEL and DIANE BRENDEL,)	
)	
Third-Party Plaintiffs,)	
)	
v.)	
)	
UNITED STATES DEPARTMENT OF)	
INTERIOR, OFFICE OF SURFACE MINING)	
RECLAMATION AND ENFORCEMENT, et al.)	
)	
Third-Party Defendants.)	

**BRENDELS' F.R.Civ.P. 12(b)(6) MOTION TO DISMISS COMPLAINT OF
CONSOLIDATION COAL COMPANY
(Oral Argument Requested)**

Defendants-Third-Party Plaintiffs Roy and Diane Brendel, by and through their counsel, David C. Hook and Michael V. Nixon, pursuant to Federal Rules of Civil Procedure ("F.R.Civ.P.") 12(b)(1) and (6), submit this motion to dismiss the Complaint filed by plaintiff Consolidation Coal Company ("Consol"). This motion is supported by the accompanying memorandum of law. The Brendels respectfully request oral argument.

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Respectfully submitted,

<u>David C. Hook</u>	<u>2/10/2006</u>
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